

## **101 KAR 2:140. Workers' Compensation Fund and Program.**

RELATES TO: KRS 18A.110(7)(i), 18A.370, 18A.375, 18A.380, 342.640

STATUTORY AUTHORITY: KRS 18A.030(2)(i), 18A.110(7)(i), 18A.380

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110(7)(i) requires the Secretary of Personnel to promulgate administrative regulations to implement programs to provide for the safety, health and welfare of state employees. KRS 18A.380 requires the cabinet to promulgate administrative regulations for the administration of the state employee workers' compensation fund established by KRS 18A.375. This administrative regulation establishes requirements for the workers' compensation fund and program for state employees.

Section 1. Workers' Compensation Fund. The self-insured workers' compensation fund and program established by KRS 18A.375(1) shall cover all eligible employees.

Section 2. Eligibles. (1) A state employee, as defined by KRS 18A.370, shall be eligible to participate in the program.

(2) Other state related groups shall be included upon written agreement with the Personnel Cabinet.

Section 3. Assessments. The assessment for an individual agency shall be based on the claims history for the past three (3) years and on the number of employees in the agency. Premiums shall be assessed at the beginning of each fiscal year.

(1) A biennial actuarial study shall be carried out to insure the fund's fiscal soundness.

(2) A fund deficit shall be recouped through an interim billing or additional assessment if deemed necessary by an actuarial study.

Section 4. Benefits. (1)(a) The required medical expense for a service rendered by a hospital or doctor, or for a prescribed medication, shall be paid subject to approval of the claim.

(b) A percentage of the employee's average weekly wage shall be paid if the employee is unable to work for an extended period due to a job-related injury or illness.

(c)1. Except as provided in subparagraph 2 of this paragraph, compensation shall not be payable for the first seven (7) days of disability.

2. If the disability continues over two (2) weeks, compensation shall be allowed from the first day of disability.

(2)(a) For an absence due to illness or injury for which workers' compensation benefits are received, if the employee elects to accept the workers' compensation benefits, accumulated leave may be used in order to maintain regular full salary.

(b) An employee electing to utilize accumulated leave shall complete and submit a Workers' Compensation Request to Use Accumulated Leave, Form WCF-2, to the employee's personnel unit.

(c) If paid accumulated leave is used, workers' compensation income benefits shall be remitted to the employee's agency for whatever period of time an employee received paid leave.

(d) An employee shall not receive and retain the benefit of paid leave and workers' compensation income benefits for the same period of time.

(e) The employee's accumulated leave shall be reinstated to the employee's leave balance to the extent that workers' compensation benefits are remitted to the employee's agency.

Section 5. Notification Procedures. (1) Employee requirements. An employee shall inform

the supervisor of an injury or illness as soon as physically able to do so.

(2) Supervisor requirements.

(a) The supervisor shall:

1. Complete the employer's First Report of Injury or Illness, Form IA-1, which is incorporated by reference in 803 KAR 25:170. The supervisor shall give specific information about the injury or illness on the form; and

2. Submit the form to the designated office in the agency within three (3) working days after the supervisor is notified of an injury or illness to insure timely payments to the employee.

(b) A Lost Time and Return to Work Form, Form WCF-1, shall be submitted by the employee's supervisor or personnel representative if an employee is losing time from work due to a work-related injury or illness. The supervisor or personnel representative shall notify the employee's personnel unit when the employee returns. The personnel unit shall submit Form WCF-1 to the Personnel Cabinet.

(c) Each medical bill, or medical information regarding treatment of a job-related injury or illness of the employee, shall be submitted in the same manner as an injury report. An injury report shall be submitted as soon as possible.

(d) A safety representative in each agency shall be notified of each accident so that the representative may review accident causes and provide safety training. A supervisor shall promote safety with employees.

Section 6. Recordkeeping. All records maintained by the Personnel Cabinet and by an agency with respect to an employee claim under this administrative regulation shall be confidentially maintained.

Section 7. Agency Withdrawal and Readmission to Program. (1) If an agency included in the fund as a result of the employment of persons defined in KRS 18A.370 desires to withdraw from the program, the agency shall provide the Personnel Cabinet with written notice of its intent to withdraw no later than thirty (30) calendar days prior to the end of the current fiscal year. If the notice is timely submitted, the agency may elect to withdraw at the end of the current fiscal year.

(2) An agency which withdraws from the program may be readmitted to the program at the discretion of the Personnel Cabinet, based on compliance with the provisions in subsections (3), (4), and (5) of this section.

(3) As a condition of withdrawal, the agency shall reimburse the Commonwealth for all claims incurred by its employees, but not reported to the fund prior to the effective date of withdrawal, without regard to the length of time after the withdrawal date that the claims are actually received by the Personnel Cabinet.

(a) The Commonwealth shall bill the agency on a quarterly basis for the cost of claims that were incurred but not reported as of the date of withdrawal until all claims have been submitted and processed.

(b) The agency shall reimburse the Commonwealth within thirty (30) calendar days of receipt of the itemized statement of payments made on the agency's behalf.

(4) If an agency that has withdrawn from the program desires to seek readmission to the fund, the Personnel Cabinet may restore the agency to the fund upon review and evaluation of the agency's claims and payment history.

(5) If the Personnel Cabinet approves the agency's restoration to the fund, the Personnel Cabinet shall assess a premium based on:

(a) Claims experience over the preceding three (3) years; and

(b) The current number of employees in the agency.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Lost Time and Return to Work Form", Form WCF-1, May 2012; and

(b) "Workers' Compensation Request to Use Accumulated Leave", Form WCF-2, May 2012.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (15 Ky.R. 886; eff. 10-12-88; Am. 26 Ky.R. 103; 575; eff. 8-25-99; 27 Ky.R. 192; 737; eff. 9-11-2000; 38 Ky.R. 1176; 1944; eff. 7-6-12; Crt eff. 2-13-2020.)